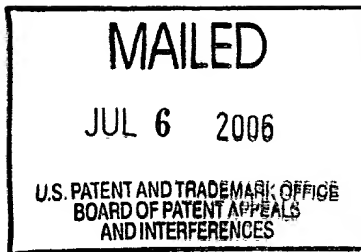


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte CHUN-MING LU
and
VINCENT M. LEE

Application 09/500,639

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on June 26, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that appellants filed an Appeal Brief on November 21, 2005. In response, an Examiner's Answer was mailed on February 21, 2006.

Section § 1207.02 of the Manual of Patent Examining

Procedure (MPEP) (8th Ed., Rev. 3, August 2005) states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

It is noted that while the Examiner's Answer states that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal"

[page 4 under the caption "Evidence Relied Upon"], the claim rejections are listed as follows:

1. Claims 1, 9-10, 12, 20-21 and 23 remain rejected under 35 U.S.C. 102(e) as being anticipated by Kirsch (USPN 5,751,956 – filing date 2/21/1996) [page 4];

2. Claims 4 and 15 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kirsch as applied to claim 1 above, and further in view of Horstmann et al (USPN 5,995,099 – filing date 6/10/1996) [page 6];

3. Claims 5 and 16 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kirsch as applied to claim 1 above, and further in view of Horstmann et al (USPN 5,995,099 – filing date 6/10/1996) as applied to claims 4 and 15 above, and further in view of Ogle et al. (USPN 6,052,736 – filing date 3/31/1997) [page 7];

4. Claims 6-8 and 17-19 and 24 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kirsch as applied to claim 1 above, and further in view of Muller et al. (USPN 6,128,279 – filing date 6/30/1997), and further in view of Fogg et al. (USPN 6,321,242 – filing date 2/6/1998) [page 8]; and

5. Claims 11 and 22 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kirsch as applied to claim 1 above, and further in view of Fogg et al. (USPN 6,321,242 – filing date 2/6/1998) [page 10].

Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for submission of a revised Examiner's Answer which corrects the "Evidence Relied Upon" section; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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